

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
 )  
Amendment of Parts 65 and 69 of )  
the Commission's Rules to Reform )  
the Interstate Rate of Return )  
Represcription and Enforcement )  
Processes )

CC Docket No. 92-133

ORIGINAL  
FILE

COMMENTS OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

The Southern New England Telephone Company (SNET), pursuant to the Notice of Proposed Rulemaking and Order of the Federal Communications Commission (Commission),<sup>1</sup> respectfully submits its Comments in the above captioned proceeding.

SNET supports the comments of the United States Telephone Association filed today in this proceeding (USTA Comments). USTA presents logical and persuasive positions on the issues raised in the NPRM of behalf of the entire local exchange carrier (LEC) industry.

SNET supports the Commission in streamlining the interstate rate of return represcription process. The current rules are overly detailed and complex, and codify many specifics of procedure and formula that are inflexible and irrelevant in

<sup>1</sup> Amendment of Parts 65 and 69 of the Commission's Rules to Reform The Interstate Rate of Return Represcription and Enforcement Processes, CC Docket No. 92-133, Notice of Proposed Rulemaking and Order, FCC 92-256, released July 14, 1992 (NPRM).

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today's environment. Further, the Commission has an appreciation that its current cost of capital process is cumbersome and expensive.<sup>2</sup> Flexibility is a very important goal in this proceeding, as all parties -- the Commission, the carriers, consumers and the public -- must be able to respond rapidly to the dynamic financial and business conditions of the interstate access marketplace. Simplification for its own sake may not be an appropriate goal. However, all parties must still be afforded an ample opportunity for a full and fair hearing.<sup>3</sup>

The Commission proposes to continue the application of unitary rate of return.<sup>4</sup> SNET supports this proposal, as there is no practical basis for applying other than a unitary return to the 1,300+ LECs remaining under rate of return; these carriers are much too diverse in size, geographic location, customer base, financial structure, and ownership characteristics for any fair system of groupings or individual prescriptions to be devised. It would be an "administrative quagmire" to design and operate a rule which could only attempt to prescribe fairly an assortment of returns. The Commission correctly concludes that it should retain its unitary rate of return policy.

The Commission proposes that represcription proceedings be initiated only when market indicators show significant changes in

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<sup>2</sup> NPRM, para. 16.

<sup>3</sup> See USTA Comments, pgs. 6 - 18.

<sup>4</sup> NPRM, paras. 6, 18, 44.

the cost of capital that are likely to persist over time.<sup>5</sup> SNET supports the Commission's belief that costs of capital do not track the calendar, and that the two year represcription cycle has not been effective.<sup>6</sup> SNET further supports the Commission's proposal for a trigger mechanism that could signal the need for a represcription proceeding only when warranted. A trigger would give the Commission needed flexibility in determining whether a proceeding would actually be necessary. SNET believes that a trigger based upon monthly capital market data, such as proposed by USTA,<sup>7</sup> would be a proper objective mechanism. SNET believes, however, that a trigger should not automatically require that a represcription be started; the Commission and the public should have the opportunity to evaluate current economic conditions, before the Commission initiates a proceeding.

The Commission requests comment on the selection of "a company or group of companies to act as a surrogate for the entities that provide LEC interstate access service."<sup>8</sup> SNET believes that a composite of the Bell Operating Telephone Companies (BOCs) would be an excellent surrogate group. The BOCs provide about 80% of the industry's local exchange access lines, and their very large operating territories literally surround the widely dispersed small and mid-sized LECs. The BOCs' capital

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<sup>5</sup> NPRM, paras. 19 - 26.

<sup>6</sup> NPRM, paras. 20 - 21.

<sup>7</sup> See USTA Comments, pgs. 34 - 40.

<sup>8</sup> NPRM, para. 48.

structures and debt costs are readily available in the FCC Annual Reports Form M, and can be simply averaged into a composite industry figure for use in the unitary return derivation. In any event, no specific surrogate group should be codified, although a rule simply stating that surrogates could be analyzed might be appropriate.<sup>9</sup>

SNET believes there is no need to require collection and analysis of capital structure and debt cost data for Tier 1 LECs other than the BOCs.<sup>10</sup> These 30 carriers account for only 16% of the industry's access lines; they are widely dispersed and are also surrounded by the BOCs. Collection of these data would add little if any value to the Commission's represetation process, compared to the effort to collect them.

SNET also believes that the new rules should not prescribe any composite or representative sample of the embedded costs of debt or capital structures of the over 1,300 rate of return LECs, as the Commission has suggested on the grounds that collection and analysis of data for these carriers will not survive a cost-benefit test.<sup>11</sup> The data for these non-Tier 1 carriers would be quite cumbersome and costly to collect, would not be internally consistent, and in many cases simply might not be available. In

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<sup>9</sup> SNET agrees that a surrogate group of the Regional Bell Holding Companies (RHCs) would have major deficiencies, due to their diversification, perceptions of investors, etc. See, NPRM, para. 50.

<sup>10</sup> NPRM, para. 85.

<sup>11</sup> Id.

order to avoid the complications of even attempting to collect these data, the Commission should rely on BOC cost of debt and capital structure data, which are consistent, already prepared, and routinely filed with the Commission.

With respect to the Commission's proposals regarding costs of equity,<sup>12</sup> SNET submits that the Commission should retain maximum flexibility here and not codify any approach or formula. "[T]he cost of equity is inherently unobservable."<sup>13</sup> Codification cannot capture the cost of equity because perceptions of constantly evolving market and financial conditions always place this determination in debate. Codification of any cost of equity method would severely restrict the Commission's flexibility, and would make future represcriptions very complex and contentious. Once a represcription proceeding is undertaken, the Commission should avail itself of the numerous methodologies available, depending upon the current situation. Parties could also submit their own proposals, of course. SNET strongly recommends that the Commission place no cost of equity formula in the rules.

In conclusion, SNET believes that the Commission can reform the rate of return represcription rules in a fair, simple and flexible way. The unitary rate of return should be continued as proposed, and a trigger mechanism should be established so that represcriptions are undertaken only when the cost of capital has

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<sup>12</sup> NPRM, paras. 54 - 75.

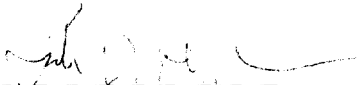
<sup>13</sup> See "Testimony of William E. Avera," affidavit attached to USTA's Comments, pg. 3.

significantly and persistently changed. The new rules should not codify any capital structure, cost of debt or equity, or surrogate mechanisms. The Commission will then have reduced regulatory burdens, while prescribing a fair and well-balance rate of return in a timely manner.

Respectfully submitted,

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by:

  
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September 11, 1992

**CERTIFICATE OF SERVICE**

I, Melanie Raycroft, hereby certify that a copy of the foregoing SNET Comments regarding CC Docket No. 92-133 was sent by first-class mail, postage prepaid, on this the 11th day of September, 1992.

  
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